

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.133

**Civil Writ Petition No.11487 of 2022
Date of Decision : May 25, 2022**

Armaan Singh

...Petitioner

Versus

Director, Institute of Law, Kurukshetra University,
Kurukshetra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Narender Pal Bhardwaj, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner is a student of 10th semester of BA LLB (Honours) course being conducted by the Institute of Law, Kurukshetra University, Kurukshetra. FIR No.138, dated 23.02.2022 was registered against him at Police Station Ladwa, Kurukshetra under Sections 148, 149, 323, 325, 379-B, 506, 120-B IPC and Section 25 of the Arms Act 1959. Section 25 of the Arms Act, 1959 and Section 379-B have since been deleted and Section 307 IPC has been added. Petitioner was arrested on 05.03.2022. Investigation is complete and challan has been presented on 05.04.2022. Copy thereof has also been supplied to the petitioner on 30.04.2022. While in custody, he was permitted to take the viva/practical examination from 27.04.2022 to 29.04.2022 and 10.05.2022 as permission was granted by the trial Court. Thereafter, he applied for permission to appear in the theory examination and permission has been granted. However, vide letter dated 20.05.2022 issued by respondent No.1, the

petitioner has been debarred from taking the said examination on account of shortage of lectures. Thus, this writ petition has been filed for directing respondents No.1 & 2 to permit the petitioner to take the theory examination scheduled from 20.05.2022 to 15.06.2022.

Learned counsel for the petitioner has submitted that shortage in lectures being on account of reasons beyond the control of the petitioner he should have been permitted to take the theory examination. For this purpose, reliance has been placed upon *Salil Trikha vs. Guru Nanak Dev University, Amritsar and another, 2011(1) SCT 587* and *Preeti Mulji Sondarwa and others vs. Controller of Examinations, University of Mumbai and others, 2015(14) SCT 661*. Further, it has been submitted that according to Rule 12 of the Rules of Legal Education, 2008 framed by the Bar Council of India, requirement of minimum attendance is 70% in one semester, whereas respondent No.1 has stated in the impugned communication dated 20.05.2022 that it is 75%. Even the Dean of the University or the Principal of the College have been given the power to allow a student to take the examination if he has attended 65% of the classes. Thus, for this reason also, the petitioner deserves to be granted relief.

Sh. Amarjit Singh Virk, Advocate has put in appearance on behalf of respondents No.1, 2, 5 & 6 as advance notice of the writ petition was received by him. He submits that provision of minimum 75% of classes is based upon Clause 4 of the University Ordinance. The same will prevail over the Bar Council of India Rules. The judgments relied upon by learned

counsel for the petitioner are not applicable, instead, judgment dated 12.03.2019 passed in CWP-6572 of 2019, ***Gaurav Dahiya (minor) through his father vs. Central Board of School Education, Delhi and others*** would apply. It is also stated that the petitioner has attended only 43% lectures. Thus, the writ petition deserves to be dismissed.

The minimum percentage of lectures/classes required to be attended is not in issue in this writ petition. The only issue is whether in the circumstances of this case, petitioner deserves to be permitted to take the theory examination?

In ***Salil Trikha (supra)***, the petitioner was hospitalized from 24.09.2009 to 30.09.2009 on account of a surgery. He was advised complete rest upto 14.10.2009. Prior to the operation, he had to undergo various tests on account of which he had to miss classes. Thus, he was not permitted to take the semester examination on account of shortage of lectures. On approaching this Court, the writ petition was allowed and shortage of lectures was condoned. In ***Preeti Mulji Sondarwa (supra)***, the Ordinance of the University of Mumbai was being interpreted which provided for condoning the shortage of lectures if supporting material was available. Neither of these cases are applicable to the facts of this case as the petitioner was not prevented from attending classes on account of medical reasons nor interpretation of the University Ordinance is being sought.

On the contrary, the judgment in ***Gaurav Dahiya (supra)*** is squarely applicable. In this case, the student was tried by the Juvenile

Justice Board on account of registration of an FIR. He was acquitted but was not permitted to take the Class-X examination on account of shortage of attendance. The writ petition was dismissed upon a consideration of Rule 14 of the Examination Bye-Laws framed by the Central Board of Secondary Education wherein being confined in judicial custody was not mentioned as one of the grounds for condoning shortage of attendance. In the instant case also, Clause 4 of the University Ordinance does not provide for condonation of shortage of attendance on account of being in judicial custody. Shortage can be condoned provided the same is on account of participation in Sports Events, Youth Festivals, University Level Debates, NCC Camps, attendance of Mountaineering Courses, Voluntary Donation of Blood, attendance of All India Moot Court/Debate competitions and attendance of extension lecture(s) organized by the National Institute of Law/Department of Law. Thus, the first respondent was justified in issuing communication dated 20.05.2022.

The writ petition has no merit and is accordingly dismissed.

May 25, 2022

Ankur

Whether speaking/reasoned

Whether Reportable

Yes

Yes

(SUDHIR MITTAL)

JUDGE